

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF CUMBERLAND, MARYLAND, ENTITLED "AN ORDINANCE TO PROVIDE FOR THE CLOSURE OF THE PORTION OF PERRY ALLEY (ALSO KNOWN AS ALLEY #141) RUNNING FROM THE EASTERN RIGHT OF WAY LINE OF VIRGINIA AVENUE TO THE WESTERN RIGHT OF WAY LINE OF FLORA ALLEY (ALSO KNOWN AS ALLEY #140) IN THE CITY OF CUMBERLAND, MARYLAND."

WHEREAS, the Mayor and City Council of Cumberland received a petition from Christian Fellowship of Cumberland, Inc., requesting the closure of the portion of Perry Alley described in the titling of this Ordinance; and

WHEREAS, the City Clerk served a personal notice in writing upon each property owner to be affected by the passage of the proposed Ordinance more than ten (10) days before March 31, 2009; and

WHEREAS, in the opinion of the Mayor and City Council of Cumberland, the public welfare and convenience require that aforesaid portion of Perry Alley be closed.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF CUMBERLAND AS FOLLOWS:

SECTION 1: The portion of Perry Alley described in the metes and bounds description attached hereto as Exhibit A and depicted in the plat attached hereto as Exhibit B is closed. The said closure is subject to the reservation/granting of a perpetual easement in favor of the Mayor and City Council of Cumberland and public utility easements, including, but not limited to, Columbia Gas of Maryland for the full length and width of the property described in the Exhibit A attached hereto for the purpose of ingress, egress, construction, maintenance, operation, alteration, replacement or removal of existing and future utilities. No buildings, structures or other obstructions shall be permitted in the area described in Exhibit A.

SECTION 2: The said Mayor and City Council of Cumberland shall ascertain whether any and what amount in value of damage shall be caused by the aforesaid closure for which the owners or possessors of any property located along said alley, or portions thereof, should be compensated, and shall assess and levy generally on the property of the persons benefitted by the closure of the alley the whole or any part of the expense which shall be incurred in closing the same.

SECTION 3: The City Administrator or his designee shall, within fifteen (15) days of the passage of this Ordinance, submit a report to the City Clerk setting forth his findings regarding what amount of damages shall have been caused by the aforesaid alley closure, and the names of the owners or possessors of such property along which said streets now pass, and the amount of damages for which they shall be compensated or

benefits for which they shall be assessed, and whether said damages arising from the closure shall be assessed generally on the whole assessable property within the City of Cumberland or specially on the property of the person benefitted by the closure; and, in the event of any of said damages being assessed and levied in whole or in part on any property of the persons benefitted, the names of the owners of the property specially benefitted, with a description of said property by reference to the Land Records of Allegany County, and the amount so levied and assessed. The Mayor and City Council shall consider the matter of the City Administrator's/designee' report and shall make determinations regarding the subject matter of the said report at a meeting held no sooner than fifteen (15) days after the date of the passage of this Ordinance.


SECTION 4: Any person feeling aggrieved or injured by the decision of said Mayor and City Council of Cumberland regarding the subject matter of the aforereferenced report shall have the right of an appeal to the Circuit Court at a trial by jury, as provided in Section 128 of the Charter of the City of Cumberland (1991 Edition), upon filing a written notice of appeal with the City Clerk within thirty (30) days after the Mayor and City Council of Cumberland shall have made their return.

SECTION 5: The benefits assessed by said Mayor and City Council of Cumberland shall be liens upon the property of the persons benefitted to the extent of such assessment, and shall be payable within sixty (60) days after the date of the meeting at which the Mayor and City Council of Cumberland makes its determinations regarding the subject matter set forth in the City Administrator's report, and the collection of the same shall be enforced by *scire facias* in the same manner as paving liens are collected by the Mayor and City Council; and a written record of the said Mayor and City Council's determinations shall be filed for record and reported in the Mechanics' Lien Record in the Clerk's Office in the Circuit Court for Allegany County, and the assessment therein shall be liens upon the properties respectively assessed from the time of such recording, such recording to be effected no sooner than the expiration of the aforesaid sixty (60) day period.

SECTION 6: Upon the collection of all benefits assessed and the payment of the damages ascertained, or the waiver of this provision by the parties interested, the said alley particularly described in Section 1 hereof shall be closed.

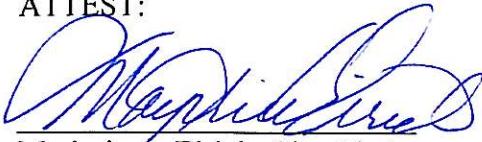
SECTION 7: This Ordinance shall take effect from the date of its passage.

Passed, this 14th day of April, 2009.



Lee N. Fiedler, Mayor

ATTEST:



Marjorie A. Eirich, City Clerk

1st Reading: March 31, 2009

2nd Reading: April 14, 2009

3rd Reading: April 14, 2009

Effective Date: April 14, 2009

EXHIBIT A

ALL that piece or parcel of ground situated in Election District No. 4, in the City of Cumberland, Allegany County, Maryland, and being more particularly described as follows (Subdivision Plat Meridian "The Cumberland Improvement and Investment Company's Southern Addition to Cumberland, Maryland" and horizontal distances): being used thru-out to wit.

BEGINNING for the same at a point at the intersection of the east side of Virginia Avenue with the south side of Perry Alley, thence running with the east side of Virginia Avenue;

1. North 18 degrees 13 minutes 57 seconds East for a distance of 12.00 feet to a point at the intersection of the east side of Virginia Avenue with the north side of Perry Alley, thence running with Perry Alley and part of the 4th line of a deed dated July 22, 2008 from Francis E. Morris and Shirley Katherine Morris to Christian Fellowship of Cumberland, Inc. recorded in Deed Liber 1510, Folio 580, reversed;
2. South 71 degrees 26 minutes 00 seconds East for a distance of 116.95 feet to a point at the intersection of the west side of Flora Alley with the north side of Perry Alley, thence running with Flora Alley;
3. South 18 degrees 34 minutes 00 seconds West for a distance of 12.00 feet to a point at the intersection of the west side of Flora Alley with the south side of Perry Alley, thence running with the south side of Perry Alley and the 4th line of a deed dated July 20, 1976 from Richard H. Davis to Almeta M. Davis recorded in Deed Liber 488, Folio 242;
4. North 71 degrees 26 minutes 00 seconds West for a distance of 116.95 feet to the place of beginning, containing 1404 square feet, more or less, all of which is shown on the plat attached hereto, and intended to be made a part hereof

ALL OF THE ABOVE described parcel being part of Perry Alley as shown on a plat entitled "Plat of the Cumberland Improvements and Investment Company's Southern Addition to the City of Cumberland, Maryland" and dated 1891 and being recorded in Plat Index 1, Folio 35.

